

**ASSEMBLY BILL**

**No. 1911**

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**Introduced by Assembly Member Eggman**

February 11, 2016

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An act to amend Section 241.1 of the Welfare and Institutions Code, relating to juveniles.

LEGISLATIVE COUNSEL'S DIGEST

AB 1911, as introduced, Eggman. Dual-status minors.

Existing law requires the probation department and child welfare service department in each county to jointly develop a written protocol, as specified, to ensure appropriate local coordination in the assessment of a minor who is both a dependent child and a ward of the juvenile court. Existing law requires, whenever a minor appears to be both a dependent child and a ward of the juvenile court, the county probation department and the child welfare services department, pursuant to that jointly developed written protocol, to initially determine which status will best serve the best interests of the minor and the protection of society.

This bill would make technical, nonsubstantive changes to those provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 241.1 of the Welfare and Institutions
- 2 Code is amended to read:

1     241.1. (a) Whenever a minor appears to come within the  
2 description of both Section 300 and Section 601 or 602, the county  
3 probation department and the child welfare services department  
4 shall, pursuant to a jointly developed written protocol described  
5 in subdivision (b), initially determine which status will serve the  
6 best interests of the minor and the protection of society. The  
7 recommendations of both departments shall be presented to the  
8 juvenile court with the petition that is filed on behalf of the minor,  
9 and the court shall determine which status is appropriate for the  
10 minor. Any other juvenile court having jurisdiction over the minor  
11 shall receive notice from the court, within five calendar days, of  
12 the presentation of the recommendations of the departments. The  
13 notice shall include the name of the judge to whom, or the  
14 courtroom to which, the recommendations were presented.

15     (b) (1) The probation department and the child welfare services  
16 department in each county shall jointly develop a written protocol  
17 to ensure appropriate local coordination in the assessment of a  
18 minor described in subdivision (a), and the development of  
19 recommendations by these departments for consideration by the  
20 juvenile court.

21     (2) These protocols shall require, but *shall* not be limited to,  
22 consideration of the nature of the referral, the age of the minor,  
23 the prior record of the minor's parents for child abuse, the prior  
24 record of the minor for out-of-control or delinquent behavior, the  
25 parents' cooperation with the minor's school, the minor's  
26 functioning at school, the nature of the minor's home environment,  
27 and the records of other agencies that have been involved with the  
28 minor and his or her family. The protocols also shall contain  
29 provisions for resolution of disagreements between the probation  
30 and child welfare services departments regarding the need for  
31 dependency or ward status and provisions for determining the  
32 circumstances under which filing a new petition is required to  
33 change the minor's status.

34     (3) (A) These protocols may also require immediate notification  
35 of the child welfare services department and the minor's  
36 dependency attorney upon referral of a dependent minor to  
37 probation, procedures for release to, and placement by, the child  
38 welfare services department pending resolution of the  
39 determination pursuant to this section, timelines for dependents  
40 in secure custody to ensure timely resolution of the determination

1 pursuant to this section for detained dependents, and  
2 nondiscrimination provisions to ensure that dependents are  
3 provided with any option that would otherwise be available to a  
4 nondependent minor.

5 (B) If the alleged conduct that appears to bring a dependent  
6 minor within the description of Section 601 or 602 occurs in, or  
7 under the supervision of, a foster home, group home, or other  
8 licensed facility that provides residential care for minors, the county  
9 probation department and the child welfare services department  
10 may consider whether the alleged conduct was within the scope  
11 of behaviors to be managed or treated by the foster home or facility,  
12 as identified in the minor's case plan, needs and services plan,  
13 placement agreement, facility plan of operation, or facility  
14 emergency intervention plan, in determining which status will  
15 serve the best interests of the minor and the protection of society  
16 pursuant to subdivision (a).

17 (4) The protocols shall contain *all of* the following processes:

18 (A) A process for determining which agency and court shall  
19 supervise a child whose jurisdiction is modified from delinquency  
20 jurisdiction to dependency jurisdiction pursuant to paragraph (2)  
21 of subdivision (b) of Section 607.2 or subdivision (i) of Section  
22 727.2.

23 (B) A process for determining which agency and court shall  
24 supervise a nonminor dependent under the transition jurisdiction  
25 of the juvenile court.

26 (C) A process that specifically addresses the manner in which  
27 supervision responsibility is determined when a nonminor  
28 dependent becomes subject to adult probation supervision.

29 (c) Whenever a minor who is under the jurisdiction of the  
30 juvenile court of a county pursuant to Section 300, 601, or 602 is  
31 alleged to come within the description of Section 300, 601, or 602  
32 by another county, the county probation department or child  
33 welfare services department in the county that has jurisdiction  
34 under Section 300, 601, or 602 and the county probation  
35 department or child welfare services department of the county  
36 alleging the minor to be within one of those sections shall initially  
37 determine which status will best serve the best interests of the  
38 minor and the protection of society. The recommendations of both  
39 departments shall be presented to the juvenile court in which the  
40 petition is filed on behalf of the minor, and the court shall

1 determine which status is appropriate for the minor. In making  
2 their recommendation to the juvenile court, the departments shall  
3 conduct an assessment consistent with the requirements of  
4 subdivision (b). Any other juvenile court having jurisdiction over  
5 the minor shall receive notice from the court in which the petition  
6 is filed within five calendar days of the presentation of the  
7 recommendations of the departments. The notice shall include the  
8 name of the judge to whom, or the courtroom to which, the  
9 recommendations were presented.

10 (d) Except as provided in subdivision (e), this section shall not  
11 authorize the filing of a petition or petitions, or the entry of an  
12 order by the juvenile court, to make a minor simultaneously both  
13 a dependent child and a ward of the court.

14 (e) Notwithstanding subdivision (d), the probation department  
15 and the child welfare services department, in consultation with the  
16 presiding judge of the juvenile court, in any county may create a  
17 jointly written protocol to allow the county probation department  
18 and the child welfare services department to jointly assess and  
19 produce a recommendation that the child be designated as a dual  
20 status child, allowing the child to be simultaneously a dependent  
21 child and a ward of the court. This protocol shall be signed by the  
22 chief probation officer, the director of the county social services  
23 agency, and the presiding judge of the juvenile court prior to its  
24 implementation. A juvenile court shall not order that a child is  
25 simultaneously a dependent child and a ward of the court pursuant  
26 to this subdivision unless and until the required protocol has been  
27 created and entered into. This protocol shall include all of the  
28 following:

29 (1) A description of the process to be used to determine whether  
30 the child is eligible to be designated as a dual status child.

31 (2) A description of the procedure by which the probation  
32 department and the child welfare services department will assess  
33 the necessity for dual status for specified children and the process  
34 to make joint recommendations for the court's consideration prior  
35 to making a determination under this section. These  
36 recommendations shall ensure a seamless transition from wardship  
37 to dependency jurisdiction, as appropriate, so that services to the  
38 child are not disrupted upon termination of the wardship.

39 (3) A provision for ensuring communication between the judges  
40 who hear petitions concerning children for whom dependency

1 jurisdiction has been suspended while they are within the  
2 jurisdiction of the juvenile court pursuant to Section 601 or 602.  
3 A judge may communicate by providing a copy of any reports  
4 filed pursuant to Section 727.2 concerning a ward to a court that  
5 has jurisdiction over dependency proceedings concerning the child.

6 (4) A plan to collect data in order to evaluate the protocol  
7 pursuant to Section 241.2.

8 (5) Counties that exercise the option provided for in this  
9 subdivision shall adopt either an “on-hold” system as described  
10 in subparagraph (A) or a “lead court/lead agency” system as  
11 described in subparagraph (B). There shall not be any simultaneous  
12 or duplicative case management or services provided by both the  
13 county probation department and the child welfare services  
14 department. It is the intent of the Legislature that judges, in cases  
15 in which more than one judge is involved, shall not issue  
16 conflicting orders.

17 (A) In counties in which an on-hold system is adopted, the  
18 dependency jurisdiction shall be suspended or put on hold while  
19 the child is subject to jurisdiction as a ward of the court. When it  
20 appears that termination of the court’s jurisdiction, as established  
21 pursuant to Section 601 or 602, is likely and that reunification of  
22 the child with his or her parent or guardian would be detrimental  
23 to the child, the county probation department and the child welfare  
24 services department shall jointly assess and produce a  
25 recommendation for the court regarding whether the court’s  
26 dependency jurisdiction shall be resumed.

27 (B) In counties in which a lead court/lead agency system is  
28 adopted, the protocol shall include a method for identifying which  
29 court or agency will be the lead court/lead agency. That court or  
30 agency shall be responsible for case management, conducting  
31 statutorily mandated court hearings, and submitting court reports.

32 (f) Whenever the court determines pursuant to this section or  
33 Section 607.2 or 727.2 that it is necessary to modify the court’s  
34 jurisdiction over a dependent or ward who was removed from his  
35 or her parent or guardian and placed in foster care, the court shall  
36 ensure that all of the following conditions are met:

37 (1) The petition under which jurisdiction was taken at the time  
38 the dependent or ward was originally removed is not dismissed  
39 until the new petition has been sustained.

- 1     (2) The order modifying the court’s jurisdiction contains all of  
2     the following provisions:
- 3     (A) Reference to the original removal findings and a statement  
4     that findings that continuation in the home is contrary to the child’s  
5     welfare, and that reasonable efforts were made to prevent removal,  
6     remain in effect.
- 7     (B) A statement that the child continues to be removed from  
8     the parent or guardian from whom the child was removed under  
9     the original petition.
- 10    (C) Identification of the agency that is responsible for placement  
11    and care of the child based upon the modification of jurisdiction.